

Application of Simon Erani
Serial No. 09/922,233 filed 8/3/2001
Response of 6/22/10 to Office Action of 12/23/09

Remarks

Receipt is acknowledged of the Office Action of December 23, 2009. Reconsideration of the application and all extensions of time necessary are hereby requested. The Commissioner is hereby authorized to charge Deposit Account No. 50-3355 for all fees required, and it is requested that any overpayments be credited thereto.

In the Office Action, the Patent Office rejected the application based on the combination of the Fructus application (US 2002/0025303) and literature from Brooks. Reconsideration of the rejections is respectfully requested.

This is a field where there are many patents and much prior work on vitamins and skin treatment, but there does not appear to be any evidence that prior researchers have recognized the benefits of combining even one of the four polypeptide components with Ascorbymethylsilanol Pectinate for a skin care product, much less the combination of all five components together which is required by the third composition recited in the claim. Considering that biochemistry is a relatively unpredictable field, it cannot be said that one can reliably predict the results for a combination of components together for skin care, as required by the claim above.

Similarly, it is submitted that the paucity of references discussed in Applicant's prior Response of May 17, 2007 is also objective evidence of non-obviousness, particularly since this is a relatively crowded art. In fact, the Supreme Court itself previously considered and gave weight to this factor in determining whether or not an invention is obvious. *See, United States v. Adams*, 383 U.S. 39, 52 (1966) ("in a crowded art replete with a century and a half of advancement, the Patent Office found not one reference to cite against the Adams application"). This is particularly so considering the extremely substantial funds expended on research and development in this field.

Accordingly, in view of the above reconsideration of the rejections and favorable action on the application is respectfully requested.

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Respectfully submitted,

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